

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AUDIO VISUAL SERVICES GROUP, LLC d/b/a  
PSAV

Employer

and

Case 05-RC-232347

INTERNATIONAL ALLIANCE OF THEATRICAL  
AND STAGE EMPLOYEES, LOCAL 22 a/w  
INTERNATIONAL ALLIANCE OF THEATRICAL  
AND STAGE EMPLOYEES, AFL-CIO  
Petitioner

ORDER

The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>1</sup>

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<sup>1</sup> The Board has exercised its discretion to examine the entire record in evaluating the Request for Review. See Sec. 102.67(e) of the Board's Rules and Regulations.

In denying review, we agree with the Acting Regional Director's finding that the petitioned-for unit is an appropriate unit. In doing so, we correct the following inadvertent errors. First, on page 9, the Acting Regional Director stated that riggers raise the truss to "working height" after equipment is attached, but the record shows that riggers raise the truss to "trim" height at this point. Second, on page 23, the Acting Regional Director appears to have accidentally stated that riggers "will check with the DET when their work is finished," but the record establishes that riggers check in with their respective rigging coordinator, not the DET. Third, on page 26, the Acting Regional Director stated that riggers use safety cables to attach equipment to truss, but the record establishes that AV employees perform this function. These minor errors did not affect the Acting Regional Director's analysis of the relevant community-of-interest factors, and do not detract from her conclusion that the petitioned-for unit is an appropriate unit.

Following the filing of the Request for Review, the Board issued *The Boeing Company*, 368 NLRB No. 67, slip op. at 3 (2019), which clarified that *PCC Structural*s, 365 NLRB No. 160 (2017), contemplates a three-step process for determining if a petitioned-for unit is appropriate or must include additional employees: (1) whether the petitioned-for employees share an internal community of interest; (2) whether the petitioned-for employees are "sufficiently distinct" from the excluded employees; and (3) consideration of any industry-specific guidelines. The Acting Regional Director did not expressly apply the first step, but the record demonstrates that the petitioned-for employees have a strong internal community of interest. All petitioned-for employees are a part of a common department (the rigging department), have common direct and overall supervision (the on-site rigging coordinator and the regional rigging coordinators), are functionally integrated as a unit because they work as a

JOHN F. RING,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

Dated, Washington, D.C., February 26, 2020.

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cohesive unit (and always work in teams of at least two) to complete the rigging work necessary for an event, are required to attend the same trainings, and generally have the same rigging skills and certifications. Although the petitioned-for rigging supervisors (who are not alleged to be supervisors as defined in Sec. 2(11) of the Act) have some additional duties beyond those of the petitioned-for riggers, there is no evidence suggesting that these additional duties take any significant time, and otherwise both classifications perform the same functions. Likewise, although the rigging supervisors are generally more highly paid, one rigger earns more than any of the rigging supervisors. Moreover, it does not appear that the Employer disputes that the petitioned-for employees share an internal community of interest. The Acting Regional Director's analysis is fully consistent with *Boeing's* second step, and there are no industry-specific guidelines to consider under the third step. We do not, however, rely on the Acting Regional Director's statement that any overlap in the duties of the petitioned-for and excluded employees is "insufficient to create a community of interest." The relevant inquiry under the second step is whether the petitioned-for employees have a sufficiently distinct community of interest, not whether petitioned-for and excluded employees have *any* community of interest.

In denying review of the Acting Regional Director's direction of a mail-ballot election with four weeks for employees to return ballots, we find that the Employer did not provide any meaningful supporting explanation of its position. As such, the Request for Review does not comply with Section 102.67(e) of the Board's Rules and Regulations, which requires that such a request be a self-contained document enabling the Board to rule on the issues on the basis of its contents. Further, our review of the record satisfies us that petitioned-for employees are "scattered" geographically and by schedule, and that the Acting Regional Director accordingly did not abuse her discretion in directing a mail ballot election. Finally, the Acting Regional Director's decision to provide four weeks for employees to return their ballots was within her discretion, and the Employer has articulated no basis for finding that she abused that discretion.

Although the Chairman and Member Kaplan view the 4 weeks provided for employees to return their ballots as excessive, they find that the Acting Regional Director's decision in this regard was not an abuse of her discretion.

Member Emanuel agrees with the decision to deny review but reiterates his view that the Board should consider restricting mail ballot elections to cases where a manual election is not feasible.